

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HUNTER HARRIS and CORA CLUETT

Plaintiffs,

v.

UNIVERSITY OF MASSACHUSETTS
LOWELL, JACQUELINE MOLONEY,
UNIVERSITY OF MASSACHUSETTS
BOSTON, MARCELO SUAREZ-OROZCO
and SHAWN DE VEAU,

Defendants.

C.A. No. 1:21-cv-11244-DJC

**DEFENDANTS' ASSENTED-TO MOTION TO ENLARGE THE PAGE LIMIT FOR
THEIR CONSOLIDATED MEMORANDUM IN OPPOSITION TO THE
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
AND IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**

Defendants University of Massachusetts Lowell, University of Massachusetts Boston, Jacqueline Moloney, Marcelo Suárez-Orozco and Shawn De Veau respectfully request that this Court enlarge the page limit for their consolidated memorandum in opposition to Plaintiffs' Motion for Preliminary Injunction (ECF No.2) and in support of their Motion to Dismiss the Complaint (filed herewith). Defendants specifically request leave to file a brief that is 40 pages in length. As grounds for this request, Defendants state as follows:

1. This case involves a matter of great public importance, as Plaintiffs are seeking to enjoin a COVID-19 vaccination requirement imposed by a state actor (the University) during an ongoing public health crisis. Defendants require additional pages in their brief to fully explain the factual context in which the vaccine requirement was imposed, to discuss the nature of the COVID-19 Vaccines and their approval process, and to thoroughly respond to the myriad legal

challenges and issues raised by Plaintiffs in their Complaint and Motion for Preliminary Injunction.

2. In order to avoid repetition in their arguments and to present the Court with a cohesive statement of their legal position, Defendants are filing a consolidated memorandum that will address both the reasons why this Court should deny Plaintiffs' Motion for Preliminary Injunction and the reasons why the Court should dismiss Plaintiffs' Complaint under Rule 12(b). Because their consolidated memo covers both of these separate (but overlapping) topics, Defendants request permission to file a legal memorandum that is longer than the normally allotted page limit.

3. Defendants state further that additional pages are necessary so that Defendants can adequately address all of the federal and state legal arguments raised by Plaintiffs in their Complaint and preliminary injunction papers. Plaintiffs challenge the University's vaccine requirement on procedural due process and substantive due process (Fourteenth Amendment) grounds, while also claiming that it violates certain federal statutory provisions and that it exceeds the University's authority under state statutory and regulatory provisions. Separately from this, Plaintiff Cluett claims that UMass Boston improperly denied her request for a religious exemption from the vaccine requirement, and that this violated her First Amendment rights, federal statutory provisions, as well as state constitutional and statutory provisions. Defendants' memorandum also addresses issues of sovereign immunity under the Eleventh Amendment.

4. Defendants will be submitting factual affidavits from University officials and experts in opposition to the Motion for Preliminary Injunction, which will require discussion and explanation in Defendants' legal memorandum.

5. Plaintiffs have informed counsel for the Defendants that they assent to the relief sought in this motion.

WHEREFORE, Defendants respectfully request that they be granted leave to file a consolidated brief of 40 pages in this important matter.

Respectfully submitted,

MAURA HEALEY
ATTORNEY GENERAL

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Dated: August 17, 2021

CERTIFICATE OF SERVICE

I certify that, on August 17, 2021, this document was filed electronically through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants identified on the Notice of Electronic Filing (NEF).

/s/ Richard S. Weitzel
Richard S. Weitzel
Assistant Attorney General

LOCAL RULE 7.1 CERTIFICATION

I certify that I have conferred with counsel for Plaintiffs by telephone on August 17, 2021, and he assented to the relief sought in this motion.

/s/ Richard S. Weitzel
Richard S. Weitzel
Assistant Attorney General